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NOTICE OF ALLOWANCE AND FEE(S) DUE

39903 7590 08/29/2008

IBM ENDICOTT (ANTHONY ENGLAND)
LAW OFFICE OF ANTHONY ENGLAND
PO Box 5307
AUSTIN, TX 78763-5307

EXAMINER

ZEE, EDWARD

ART UNIT

PAPER NUMBER

2135

DATE MAILED: 08/29/2008

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/735,581

12/12/2003

Sudarshan Palliyil

JP920030275US1

2542

TITLE OF INVENTION: APPARATUS, METHODS AND COMPUTER PROGRAMS FOR IDENTIFYING OR MANAGING VULNERABILITIES
WITHIN A DATA PROCESSING NETWORK

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1440	\$300	\$0	\$1740	12/01/2008

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

**Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

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39903 7590 08/29/2008

**IBM ENDICOTT (ANTHONY ENGLAND)
LAW OFFICE OF ANTHONY ENGLAND
PO Box 5307
AUSTIN, TX 78763-5307**

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I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/735,581 12/12/2003 Sudarshan Palliyil JP920030275US1 2542

TITLE OF INVENTION: APPARATUS, METHODS AND COMPUTER PROGRAMS FOR IDENTIFYING OR MANAGING VULNERABILITIES WITHIN A DATA PROCESSING NETWORK

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
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nonprovisional NO \$1440 \$300 \$0 \$1740 12/01/2008

EXAMINER	ART UNIT	CLASS-SUBCLASS
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ZEE, EDWARD 2135 726-024000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s); (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

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Date _____

Typed or printed name _____

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This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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LAW OFFICE OF ANTHONY ENGLAND
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AUSTIN, TX 78763-5307

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 751 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 751 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability	Application No.	Applicant(s)	
	10/735,581	PALLIYIL ET AL.	
	Examiner	Art Unit	
	EDWARD ZEE	2135	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendments filed on 06/20/08 and the telephonic interview conducted on 08/19/08.
2. ☒ The allowed claim(s) is/are 49,50,52-54,56-58 and 60.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. As per MPEP 713.04, a separate interview summary form is not provided as the substance of the interview has been summarized herein.

Authorization for this examiner's amendment was given in a telephone interview with Anthony England (No. 35,129) on August 19th, 2008.

The application has been amended as follows:

Please amend Claims 49, 53 and 57 as follows:

49. An apparatus comprising:

a processor; and

a storage device connected to the processor, wherein the storage device has stored thereon a program, wherein the processor is configured to execute instructions of the program to implement a method comprising the steps of:

updating, at successive update times, virus definitions for resources stored on a data processing system;

scanning the resources for viruses in first and second scanning instances responsive to the virus definitions updated at respective first and second ones of the update times;

computing hash values for the resources at the first and second update times;

classifying each of the resources as higher or lower priority responsive to whether the hash values for each resource are equal for the first and second update times and whether the scanning determines each resource is virus free in both the first and second scanning instances;

Art Unit: 2135

determining a scanning interval from a time of the first scanning instance until a time of the second scanning instance;

updating the virus definitions at a next update time; and

scanning resources for viruses in a next scanning instance responsive to the virus definitions updated at the next update time, wherein in the next scanning instance the ones of the resources classified as higher priority are scanned and the scanning of the higher priority resources in the next scanning instance includes scanning i) resources determined to be virus free in both the first scanning instance and the second scanning instance but not having equal hash values in the first and second update times, ii) resources determined to be virus free in both the first scanning instance and the second scanning instance and having equal hash values in the first and second update times but wherein the scanning interval is less than a predetermined threshold, iii) resources determined to be virus free in the first scanning instance and having equal hash values in the first and second update times but wherein the scanning interval is less than a predetermined threshold, and iv) resources determined to be virus free in the second scanning instance but wherein the scanning interval is less than a predetermined threshold.

53. A method comprising the steps of:

updating, at successive update times, virus definitions for resources stored on a data processing system;

scanning the resources for viruses in first and second scanning instances responsive to the virus definitions updated at respective first and second ones of the update times;

computing hash values for the resources at the first and second update times;

classifying each of the resources as higher or lower priority responsive to whether the hash values for each resource are equal for the first and second update times and whether the scanning determines each resource is virus free in both the first and second scanning instances;

Art Unit: 2135

determining a scanning interval from a time of the first scanning instance until a time of the second scanning instance;

updating the virus definitions at a next update time; and

scanning the resources for viruses in a next scanning instance responsive to the virus definitions updated at the next update time, wherein in the next scanning instance the ones of the resources classified as higher priority are scanned and the scanning of the higher priority resources in the next scanning instance includes scanning i) resources determined to be virus free in both the first scanning instance and the second scanning instance but not having equal hash values in the first and second update times, ii) resources determined to be virus free in both the first scanning instance and the second scanning instance but wherein the scanning interval is less than a predetermined threshold, iii) resources determined to be virus free in the first scanning instance and having equal hash values in the first and second update times but wherein the scanning interval is less than a predetermined threshold, and iv) resources determined to be virus free in the second scanning instance and having equal hash values in the first and second update times but wherein the scanning interval is less than a predetermined threshold.

57. A computer program product including a tangible, computer readable medium, said computer readable medium having instructions stored thereon for execution by a computer system, wherein the instructions, when executed by the computer system, cause the computer system to implement a method comprising the steps of: updating, at successive update times, virus definitions for resources stored on a data processing system;

scanning the resources for viruses in first and second scanning instances responsive to the virus definitions updated at respective first and second ones of the update times;

computing hash values for the resources at the first and second update times;

classifying each of the resources as higher or lower priority responsive to whether the hash values for each resource are equal for the first and second update times and whether the scanning determines each resource is virus free in both the first and second scanning instances;

Art Unit: 2135

determining a scanning interval from a time of the first scanning instance until a time of the second scanning instance;

updating the virus definitions at a next update time; and

scanning the resources for viruses in a next scanning instance responsive to the virus definitions updated at the next update time, wherein in the next scanning instance the ones of the resources classified as higher priority are scanned and the scanning of the higher priority resources in the next scanning instance includes scanning i) resources determined to be virus free in both the first scanning instance and the second scanning instance but not having equal hash values in the first and second update times, ii) resources determined to be virus free in both the first scanning instance and the second scanning instance but wherein the scanning interval is less than a predetermined threshold, iii) resources determined to be virus free in the first scanning instance and having equal hash values in the first and second update times but wherein the scanning interval is less than a predetermined threshold, and iv) resources determined to be virus free in the second scanning instance and having equal hash values in the first and second update times but wherein the scanning interval is less than a predetermined threshold.

3. The following is an examiner's statement of reasons for allowance:

The Examiner notes that an office action appendix has been attached hereto which contains a copy of the interview agenda submitted by the Applicant on June 24th, 2008 regarding how the new features introduced into the current set of claims are supported by the original specification. Furthermore, the arguments submitted on June 20th, 2008 have been considered and are persuasive, in particular those remarks found on pages 10-12. Thus in light of the attached interview agenda and the submitted arguments, the claims are deemed allowable over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDWARD ZEE whose telephone number is (571)270-1686. The examiner can normally be reached on Monday through Thursday 9:00AM-5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Y. Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EZ
August 19, 2008
/KimYen Vu/
Supervisory Patent Examiner, Art Unit 2135